IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 176 of 2002

in

SPECIAL CIVIL APPLICATIONNo 4895 of 2001

with

LETTERS PATENT APPEAL Nos.177, 202, 209, 430, 431, 432, 434, 435, 437, 439, 440, 442, 444, 445, 446, 447, 450, 453, 456, 457, 478, 480, 481, 665, 666, 667, 668, 669, 670, 673, 674, 675, 676, 677, 678 and 679 of 2002

with

CIVIL APPLICATION Nos.3144, 2869, 3545, 3154, 3080, 3195, 3163, 3173, 1973, 3171, 3137, 3148, 3175, 1963, 3177, 3214, 3141, 3159, 3181, 1980, 3198, 3139, 3161, 3169, 3143, 4947, 3186, 4938, 4930, 4934, 4944, 4942,4940, 4932, 4028, 4927 and 4936 of 2002.

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

BALDEVSINH GAMBHIRSINH SOLANKI

Appearance:
MR KAMAL B. TRIVEDI, ADDL. AG, WITH MR AD OZA, GP AND
MR LR PUJARI, AGP, FOR THE APPELLANTS.
MR MAHESH BHAVSAR for the respondent in LPA Nos.176, 439 of 2002.
MR MITUL K. SHELAT for the respondent in LPA No.177, 431, 432, 437, 445, 450, 667, 674, 676 of 2002.
MR AS SUPEHIA for the respodnent in LPA Nos.209, 446, 456, 478, 675, 678 and 679 of 2002.
MR AM DESAI for the respondent in LPA No.202 of 2002
MR PINAKIN M. RAVAL for the respondent in LPA Nos.430, 442, 666 of 2002.
MR IS SUPAIYA for the respondent in LPA Nos.434, 444, 447, 481, 668, 677 of 2002.
MS SNEHA JOSHI for the respondent in LPA No.435 of 2002.
MR BP GUPTA for respondent in LPA No.440 of 2002.
MR PR NANAVATI for the respondent in LPA No.453/02.
M/S.TANNA ASSOCIATES for respondent in LPA No.457/02.
MR YN RAVANI for respondent in LPA No.480/02.
MR PARESH UPADHYAY for respondent in LPA No.665/02.
MR BT RAO for respondent in LPA No.669/02.
MR PH PATHAK for respondent in LPA No.670/02.

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE KUNDAN SINGH

Date of decision: 01/10/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

In this group of Letters Patent Appeals, since common question as regards compassionate appointment is involved and covered, upon joint request, they are being disposed of by this common judgment.

This group of Letters Patent Appeals, at the instance of

the State of Gujarat, by invocation of clause 15 of the Letters Patent, is filed challenging the judgments and orders of the learned single Bench in various writ petitions under Article 226 of the Constitution of India. The respondents are, thus, the original petitioners in whose favour the learned single Bench has ruled. It has been held that the original petitioners are entitled to the benefits of the Scheme of Compassionate Appointment of the Government.

Although there is a purpose and policy behind carving out appointment in public service by introducing Scheme of giving compassionate appointment to the members of the dependant family of the Government employees who died during servic and the same has been upheld by catena of judicial pronouncements, in view of the consensus, in these group of appeals, it would not be necessary for us to divulge meticulously on those aspects.

The Government of Gujarat by its resolution dated 10.3.2000 had revised the policy and scheme of giving compassionate appointment to the members of dependant family of Class III and Class IV employees who died during their service. It appears that scheme of giving compassionate appointment to one member of dependant family of the employee who died in harness, while being in Government employment, was, initially, introduced on 13.10.75 by D.O. letter of the General Administration Department of the State of Gujarat. Thereafter, number of amendments came to be made therein, from time to time. The Government of Gujarat, considering the demands for various Staff Unions and Associations and judgments of various Courts, revised the Scheme abrogating all earlier instructions of the subject with a view to bring into force the revised scheme of giving compassionate appointment to one member of the dependant family of Class III and IV employee died during the service by virtue of aforesaid resolution dated 10.3.2000. The revised scheme under this resolution was implemented with effect from the date of resolution, like that, 10.3.2000 giving cases prior to that to be decided in terms of the prevailing provisions of the Scheme. In short, in cases prior to the date of this resolution, it was decided that instructions prevailing for the time being shall apply for such appointments. It was, also, decided that such appointments shall be subject to the terms and conditions for appointment, like other cases, along with availability of vacancies as prescribed under the Scheme.

The object of the revised scheme is to give relief in financial stringency and to assist the family to cope

with unexpected critical situation by giving compassionate appointment to one member of the dependant family of the employee who died during service leaving the family in helpless condition without any means of livelihood. The resolution, also, prescribed, other terms and conditions including eligibility criteria and time limit for making applications for such appointments.

However, since the monetary ceiling for entitlement and eligibility to the benefit of such scheme, hitherto, prescribed in various schemes, which was done away with, in the aforesaid resolution in cases of death occurring after 1.1.96, came to be challenged in various petitions by invoking aid of the provisions of Article 226 of the Constitution of India. This Court, upon critical assessment and evaluation of the criteria, parameters, design and desideratum and also upon consideration of factual profile of the matters, allowed number of petitions seeking benefits of such Scheme, even in cases in which death had occurred prior to the effective or the cut-off date provided in the aforesaid resolution, like that, 10.3.2000. The view taken and the arguments advanced by the Government in those matters were not found favour. Therefore, number of LPAs with the help of clause 15 of the Letters Patent came to be filed.

In this group of appeals, there is consensus that the dates of death of the employees were on or after 1.1.96 and before 10.3.2000. During the course of hearing of LPAs, the State of Gujarat, reconsidered the Scheme by virtue of resolution dated 10.3.2002 and was pleased to restructure and revise the policy and the scheme of giving compassionate appointment to the members of the dependant family of the Government employee who died during service, by virtue of resolution dated 7.9.2002 of General Administration Department of the Government of Gujarat.

Upon consensus, during hearing of this group of Letters Patent Appeals and before their judicial adjudication, a copy of the revised resolution dated 7.9.202 was brought on record. It was, jointly, submitted that the policy and the scheme with regard to compassionate appointment, after considering the resolutions dated 10.3.2000 and also dated 12.4.2002 and considering the High-Level Committee Report, State of Gujarat, introduced the aforesaid Scheme and policy of the compassionate appointment, by the resolution dated 7.9.2002.

It is, in this context, in this group of Letters patent Appeals, it has been jointly, rightly, urged that the

cases of original petitioners are covered as it has been decided to implement the scheme of compassionate appointment declared by resolution dated 10.3.2000 with effect from 1.1.96, for the purpose of income only. Due to the removal of limit of income from 1.1.96, the date 1.1.96 shall be considered as the date of reference for any ancillary issues that may be cropped up as the income limit has been removed from 1.1.96. The writ petitions, under Article 226, from which this group of Letters Patent Appeals has arisen cover the cases of Government employees who died on or after 1.1.96 attracting on all fours, the vigours and rigours of the Government Resolution dated 7.9.02. It is, jointly, submitted that in this group of cases, the said resolution is attracted and all the cases are covered under the latest revised and restructured formula and scheme for giving compassionate appointment to the member of the dependant family of the Government employee who died during service on or after 1.1.96, by virtue of Government resolution dated 7.9.2002.

In some cases, after the directions of the Court given by the learned single Bench, compassionate appointments have been made by the Government and, many cases, are yet to be resolved. Obviously, therefore, the appellant-State of Gujarat, is obliged to adhere and to strictly implement the revised resolution, after considering the pending cases covered by the said resolution, in terms and conditions thereof. We hope and trust that the State of Gujarat will take expeditious actions in pending cases of the original petitioners covered by the latest revised and restructured scheme and also compassionate appointment by virtue of Government resolution dated 7.9.2002. We may, also, highlight that many cases are very old. Considering the purpose and policy, the design and desideratum of according benefit of compassionate appointment to the member of the dependant family of the Government employee who died during harness, is to see that the family of the deceased employee, whose member is eligible and entitled to be appointed on the basis of compassionate appointment to get away from the financial stringency, monetary crunch and likely vagrancy due to the loss of breadwinner of the family while in service of the Government and with a view to subserve the underlying purpose and object of the scheme, the appellant, State of Gujarat, is directed to take appropriate expeditious decision in pending cases within a period of six months, as far as as possible. We may, also, clarify that those cases which are not resolved and in which compassionate appointments have not been given, one week thereafter report shall be submitted to the Registry of this Court,

who in turn will report to this Court for further directions, if required.

In view of the aforesaid observations and directions, this group of Letters Patent Appeals shall stand disposed of confirming and affirming the grant of compassionate appointments directed by the learned single Bench, with no order as to costs.

Civil Applications in this group of Letters Patent Appeal, obviously, shall not assume any survival value and they also, stand disposed of.

(J.N.Bhatt, J.)

(Kundan Singh, J.)
(vjn)